

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Suzanne B. Conlon	Sitting Judge if Other than Assigned Judge	Ian H. Levin
CASE NUMBER	02 CR 892 - 2	DATE	11/22/2002
CASE TITLE	USA vs. Enaam M. Aranout		

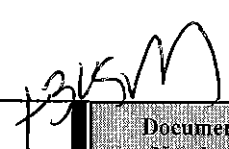

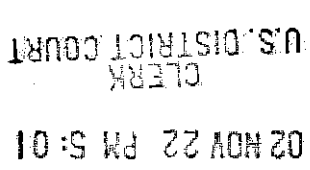
[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due _____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ Local Rule 41.1 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] **Enter memorandum opinion and order. Hearing on detention held. The court finds that no condition or combination of conditions will reasonably assure the appearance of the defendant as required. Order defendant detained pending trial.**

- (11) ☐ [For further detail see order (on reverse side of/attached to) the original minute order.]

<input type="checkbox"/>	No notices required, advised in open court.		Document Number
<input type="checkbox"/>	No notices required.		
<input type="checkbox"/>	Notices mailed by judge's staff.		
<input type="checkbox"/>	Notified counsel by telephone.		
<input checked="" type="checkbox"/>	Docketing to mail notices.		
<input type="checkbox"/>	Mail AO 450 form.		
<input checked="" type="checkbox"/>	Copy to judge/magistrate judge.		number of notices NOV 25 2002 date docketed [Signature] docketing deputy initials date mailed notice mailing deputy initials
SM	courtroom deputy's initials	Date/time received in central Clerk's Office	

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA **DOCKETED**

v.

NOV 25 2002

Case No. 02 CR 892

ENAAM M. ARNAOUT,

a/k/a "Abu Mahmoud",

a/k/a "Abu Mahmoud al Suri",

a/k/a "Abu Mahmoud al Hamawi",

a/k/a "Abdel Samia"

Magistrate Judge Ian H. Levin

MEMORANDUM OPINION AND ORDER

The issue before the Court is whether the Defendant, Mr. Arnaout, should be detained pending trial or whether he should be placed on bond, with the type of conditions proposed by the Defense.

The Court takes judicial notice of the record in prior case number 02 CR 414, in which Mr. Arnaout was a defendant. The ruling of the Court at the probable cause hearing in case number 02 CR 414 is attached hereto for reference purposes.

BACKGROUND

As is pertinent here, and in abbreviated form, the indictment charges as follows: Mr. Arnaout became associated with Osama Bin Laden in the late 1980's.

In about 1991, Arnaout worked with members of *al Qaeda* to purchase large quantities of weapons and to distribute them to various *Mujahideen* (fighter) camps,

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including *al Qaeda* camps.

The indictment continues: In 1993, Mr. Arnaout assumed formal management of Benevolence International Foundation (“BIF”) and Mr. Arnaout remained in that position until, at least, his arrest this year. BIF was a charitable organization whose ostensible purpose was to use donated funds solely for humanitarian purposes, with a strong overseas focus. The focus of BIF’s appeal for donated funds was principally to Muslim donors. However, Arnaout has always secretly used a portion of the money raised by BIF to support *Mujahideen*, including *al Qaeda*, engaged in armed confrontations and violence overseas, such as in Chechnya and Bosnia-Herzegovina (a fact concealed from many donors to BIF).

ANALYSIS

The Government’s principal argument herein is that the Defendant is a risk of flight, which, under uniform case law, the Government must establish by a preponderance of the evidence.

The Court has taken into account the available information and arguments on both sides concerning the factors delineated at 18 U.S.C. § 3142(g).

The Court finds, however, that there are several overriding factors in this case. In considering the risks of flight herein, implicitly, the Court must assess (A) the Defendant’s mental state (including his motivation to flee) and (B) whether the

Defendant has the physical means to flee.

As to mental state: Mr. Arnaout is charged with racketeering conspiracy, providing material support to organizations engaged in violent activities, money laundering, mail fraud and wire fraud. Mr. Arnaout faces a possible 90 year sentence if convicted of these charges. The Government also states that upon conviction it will seek sentencing enhancements that would result in Mr. Arnaout being sentenced to life in prison. In these circumstances, and given the post 9/11 climate in this country, regardless of Mr. Arnaout's actual guilt or innocence of all this, the natural human tendency has to be for Mr. Arnaout to apprehensively feel he's in a difficult and opprobrious situation, from which flows an incentive and risk for flight. In addition, the evidence offered by the Government was that even several months prior to Mr. Arnaout ever being formally charged in a criminal complaint, Mr. Arnaout discussed with another individual whether he should leave for Saudi Arabia (where Mr. Arnaout's Mother and siblings live) and not return to the United States. Further government evidence was that a month or two before being formally charged criminally, Mr. Arnaout advised the Benevolence International Foundation representative in Pakistan to leave and relocate to Afghanistan with all the money, to avoid the Pakistani intelligence authorities who were looking for that Pakistan representative.

As to physical means: The Defendant has an extensive international network of contacts, which is not available to the average person. Besides a sister organization in Canada and an office in New Jersey, Benevolence International Foundation (“BIF”)¹ had about twelve offices overseas; namely, in Pakistan, Bosnia, Yemen, Sudan, Azerbaijan, Tajikistan, Bangladesh, Turkey, Dagestan, Soviet Georgia, China and Ingushita (moved from Chechnya). BIF also had charitable projects in a number of these countries plus Afghanistan. As stated, Defendant has family in Saudi Arabia and he was born and raised in Syria. And Defendant used to reside in Florida.

The Court thus perceives that Defendant has the requisite mental state and the available physical means to create a risk of flight.

It also bears noting that electronic monitoring can’t stop a person from fleeing. It can be noted, too, that all the property previously proposed to be posted as bond security is either owned by BIF or members of the community. There thus would be no financial harm incurred by Defendant’s family if he flees, which therefore creates significantly less incentive for the Defendant to stay than if Defendant or his family was to post substantial security.

¹ Somewhat recently, BIF has been rendered defunct, initiated by virtue of certain United States government civil action.

CONCLUSION

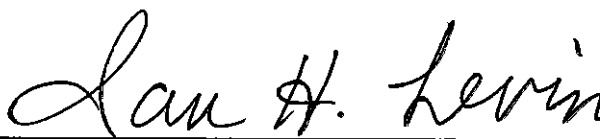
In view of the foregoing, considering the totality of the factors and circumstances, the Court determines that the Government has met its burden that the Defendant is a risk of flight. And the Court finds that no condition or combination of conditions will reasonably assure the appearance of the Defendant as required. Therefore, the Defendant is ordered detained pending trial.²

In light of the Court's ruling, the Court deems it unnecessary to consider whether the Government has established by clear and convincing evidence that the Defendant is a danger to the community.

In closing, the Court directs that Enaam M. Arnaout be afforded reasonable opportunity for private consultation with counsel. 18 U.S.C. §1342(i)(3).

Date: November 22, 2002

ENTER:



Ian H. Levin

United States Magistrate Judge

² Pretrial Services has recommended detention of the Defendant, based on a risk of flight and as a danger to the community.

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,) Docket No. 02 CR 414
Plaintiff,)
vs.)
BENEVOLENCE INTERNATIONAL FOUNDATION,)
INC., and ENAAM M. ARNAOUT, a/k/a)
"Abu Mahmoud", a/k/a "Abdel Samia",) Chicago, Illinois
Defendants.) May 13, 2002
1:30 o'clock p.m.

TRANSCRIPT OF PROCEEDINGS - PROBABLE CAUSE HEARING
BEFORE THE HONORABLE IAN H. LEVIN - Ruling

APPEARANCES:

For the Plaintiff:

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UNITED STATES ATTORNEY
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For Benevolence Int'l:

GESSLER, HUGHES, SOCOL, PIERS,
RESNICK & DYM
BY: MR. MATTHEW J. PIERS
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For Enaam Arnaout:

STEPHEN LEVY & ASSOCIATES
BY: MR. STEPHEN LEVY
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Chicago, Illinois 60602

1 APPEARANCES (Cont'd):

2 Court Reporter:

MR. JOSEPH RICKHOFF
Official Court Reporter
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Chicago, Illinois 60604
(312) 435-5562

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6 PROCEEDINGS RECORDED BY
7 MECHANICAL STENOGRAPHY
8 TRANSCRIPT PRODUCED BY COMPUTER
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22 My ruling is as follows as to this matter:

23 In preface, it bears noting that this is not a trial
24 and that the nature of the proceeding presently before the
25 Court is such that the defendants do not mount a defense.

1 Rather, and essentially, the purpose of this
2 preliminary hearing is to determine from the evidence
3 presented by the United States Attorney's Office if there is
4 probable cause to believe that the offense of perjury as
5 charged in the criminal complaint here has been committed by
6 the defendants.

7 Specifically, the complaint charge herein is that the
8 defendants knowingly submitted false material declarations
9 under oath in a federal district court proceeding here in
10 Chicago and in violation of Title 18, United States Code,
11 Section 1623.

12 As is pertinent here, the portion of the sworn
13 declarations signed by defendant Arnaout on behalf of the
14 defendant Benevolence International Foundation -- hereafter
15 called BIF -- in issue states that Benevolence International
16 Foundation, "has never provided aid or support to people or
17 organizations known to be engaged in violence, terrorist
18 activities or military operations of any nature."

19 At the hearing before the Court, the United States
20 Attorney's Office presented evidence that in 1995, relative to
21 military operations and violence, Benevolence International
22 Foundation representatives delivered an X-ray machine and
23 \$3225 to Chechnyan guerillas or freedom fighters for military
24 operations in Azerbaijan.

25 The U.S. Attorney's Office also presented evidence

1 that during or after February, 2000, a website dedicated to
2 the cause of the Chechen freedom fighters in the military
3 fight or jihad in Chechnya posted donation links on the
4 website for Benevolence International Foundation (and only one
5 other charity) as a trustworthy aid organization to donate
6 money to the Chechnyan mujahideen (holy warriors) or freedom
7 fighters for the military operations in Chechnya.

8 The U.S. Attorney's Office presented related evidence
9 that during or around the same February, 2000, period, BIF
10 wired \$685,000 to its account in that vicinity or region.

11 When the described website and \$685,000 in money
12 transfers are compared as to time and considered with other
13 circumstantial evidence presented by the government, for
14 purposes of this probable cause hearing, a reasonable
15 inference is that the subject \$685,000 or some significant
16 portion thereof went for military operations and violence in
17 Chechnya.

18 Regarding the issue of materiality raised by
19 Mr. Piers in the closing argument, the Court respectfully
20 finds that the declaration at issue is "material." The civil
21 district court suit filed by BIF is wholly premised on the
22 premise that BIF is solely a charitable organization. The
23 declaration by BIF therein that it has never provided aid or
24 support to any people or organization known to be engaged in
25 military operations of any nature or violence is, therefore,

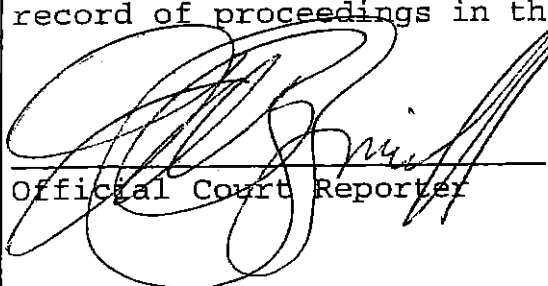
1 clearly and inherently a material declaration in that civil
2 suit.

3 In summary, in view of the described evidence
4 presented by the government regarding the X-ray machine, \$3500
5 in cash for use by the Chechen mujahideen (or guerillas or
6 freedom fighters) in their war activities in Chechnya, plus
7 the evidence surrounding the \$685,000 in money transfers
8 discussed, the Court finds that probable cause exists that the
9 defendants knowingly submitted false material declarations
10 under oath that BIF has never provided aid or support to
11 people or organizations known to be engaged in, inter alia,
12 "violence" or "military operations of any nature."

13 Accordingly, the Court finds from the evidence that
14 there is probable cause to believe that the offense charged in
15 the complaint has been committed and that the defendants have
16 committed such offense. The defendants, thus, are held to
17 answer for further proceedings in the district court.

18 That is the finding of the Court on that issue.
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1 I certify that the foregoing is a correct transcript from the
2 record of proceedings in the above-entitled matter.

3  May 23, 2002
4 Official Court Reporter

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